IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.772 OF 2005
IN
SUIT NO.2823 OF 2001

Duraiya Mansur Petiwala & Anr....Plaintiffs

Vs.

Yusuf Husanali Petiwala & Ors...Defendants

And

Ms. Shama Z. Kachwala & Ors.....Respondents

Mr.B.Colabawala i/b. Madewal & Co., for the Plaintiffs
Mr. Vivek Sharma for Respondent No.2.
Mr. D.H. Mehta i/b. M/s. Nitya Sunil & Co., for Defendant No.1 and 2.
Mr. Vivek Kantawala for Respondent No.1.

CORAM: A.M. KHANWILKAR, J.
DATE : 8th August, 2005
P.C.:

1. Heard Counsel for the parties. Perused the pleadings.

As it is not in dispute that two of the heirs of deceased defendant No.5 are already on record, namely, defendant Nos.3(a) and 4, in my opinion, in the interest of justice, this Chamber Summons ought to be allowed in terms of prayer clauses (a) and (b) as prayed. It is rightly contended on behalf of the plaintiffs that if other heirs and legal representatives of deceased defendant are already on record the question of abatement does not arise. In the circumstances Chamber Summons made absolute in terms of prayer clauses (a) and (b). Amendment to be carried out within three weeks from today. It is clarified that this order is passed without lprejudcie to the interim relief passed in the suit.

No order as to costs.

(A.M. KHANWILKAR, J.)